

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

YEHOSHUA SCHLUSSELBERG,

Plaintiff,

vs.

RECEIVABLES PERFORMANCE
MANAGEMENT, LLC,

Defendants.

Case No. 3:15-cv-07572-FLW-TJB

Conference Date: 3/15/16

Civil Action

**DECLARATION OF CHRISTOPHER
VITTOZ**

I, Christopher Vittoz, hereby declare under the penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. §1746:

1. My name is Christopher Vittoz. I am the Chief Financial Officer for the defendant Receivables Performance Management, LLC ("RPM"). I make this declaration based on my personal knowledge and my review of business records maintained by RPM. I am over the age of eighteen (18) years, am of sound mind, have personal knowledge of the facts and matters set forth herein unless noted as based on information and belief and such are true and correct to the best of my knowledge.

2. As the Chief Financial Officer, I am required to understand and do understand the LiveVox human-initiated calling system known as the Human Call Initiator ("HCI").

3. A review of RPM's account notes shows that it made 92 phone calls to the plaintiff at his phone number 732-604-1143 in order to collect on an outstanding account owed by another subscriber to Verizon.

4. LiveVox provides hosted calling services, meaning that it provides the hardware and software for its calling systems. LiveVox's customers, including RPM, access the software through a secure online portal. LiveVox's customers do not access any LiveVox system by installing any LiveVox software or hardware on the customer's computer.

5. LiveVox offers a comprehensive calling platform to its customers. The platform has several different and distinct outbound dialing systems, including both human-initiated dialing systems and an automated dialing system. The human-initiated dialing systems required an agent to manually initiate a call, and are designed and built by LiveVox so as not to be capable of automated or predictive dialing.

6. HCI is one of LiveVox's human-initiated systems. HCI is a distinct system separated from LiveVox's other outbound dialing system at the hardware and software level. HCI uses its own unique combination of software and hardware that is not shared with any other LiveVox system. The software underlying HCI is designed only to enable the type of calls launched in HCI.

7. All HCI calls are routed through a set of servers exclusively dedicated to HCI calls. Those HCI servers cannot launch automated calls or prerecorded calls.

8. Every call launched using HCI requires human intervention by an agent: an employee or other person working on behalf of RPM making the call. The human intervention takes the form, in part, of a "clicker agent" clicking on a dialogue box to confirm the launching of a call to each particular telephone number. The call will not be launched unless the clicker agent clicks on the dialogue box.

9. The clicker agent is also able to monitor a real-time dashboard that contains information about "closer agent" availability, number of calls in progress, and related metrics. The closer agent is the agent designated by the LiveVox customer to speak with the call recipient. In addition to the action required by the clicker agent, in order for a call to be launched in HCI, there must be a closer agent who is available to take the call. Further, HCI is designed to allow a clicker agent as well as a dialer administrator to control how often calls are made by reviewing the dashboard and making judgments based on that information when deciding when to launch any particular call.

10. A clicker agent, when logged into HCI, is logged into HCI only and not into any other LiveVox outbound dialing system. To log into any other LiveVox outbound dialing system, the clicker agent would first need to log out of HCI.

11. HCI does not use any predictive or any other kind of algorithm to engage in predictive dialing of any kind. For example, HCI does not use a statistical algorithm to minimize the time that agents spend waiting between calls, nor does it use an algorithm to minimize the occurrence of a consumer answering a call when no closer agent is available.

12. The HCI system does not have the preset capacity to auto-dial; it does not have any features that permit autodialing and there are no features in HCI that can be turned on to enable autodialing.

13. The HCI system does not have the potential capacity to auto-dial; there are no features that can be activated, deactivated, or added to the system to enable auto-dialing. There is no external application programming interface ("API") with which to add

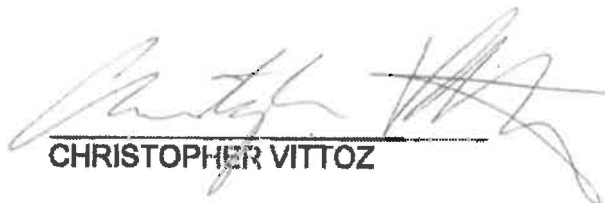
software to the system; the components of HCI are designed so as not to be able to transfer a list from one component to another; and the server that launches HCI calls only recognizes a request from HCI agent presentation layer, which itself requires a click for each call.

14. HCI does not have the capacity to store or produce numbers to be called using a random or sequential number generator.

15. The HCI platform is a standalone. It does not offer artificial or prerecorded messages. It is housed on its own server. It is separated from any automated dialing technology.

16. The RPM cell phone numbers, including Mr. Schlussberg's, are placed into the standalone system, the HCI platform. Each individual telephone number record is presented to a clicker agent. The clicker agent then has to acknowledge that he/she would like to dial the telephone number.

17. The call is then initiated by the clicker agent clicking with a mouse or pressing enter.



CHRISTOPHER VITTOZ

DATED: 2/9/2017